

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STEVEN M. JACOB,)
)
)
Petitioner,) 4:10CV3073
)
)
v.)
)
)
SCOTT FRAKES,) MEMORANDUM AND ORDER
)
)
Respondent.)
)

This matter is before the Court on Steven M. Jacob's ("petitioner") objection to the destruction of an exhibit (Filing No. [233](#)). On February 19, 2015, Judge Bataillon held a show cause hearing regarding respondent's failure to abide by the Court's progression orders. See Filing No. 155. During this hearing, Exhibit 101 (respondent's brief in response to the Court's order to show cause) was received into evidence. See *id.* See also Exhibit 101. On July 21, 2017, the Court issued an order for the destruction of Exhibit 101 (Filing 232).

Although the petitioner's present motion is titled an "Objection," the relief he seeks is to stay the Court's July 21, 2017, order to destroy (Filing No. [232](#)), provide him with a copy of Exhibit 101, and grant him leave to determine whether or not it is relevant to an appeal. See Filing No. [233](#). Petitioner asserts that he has not seen Exhibit 101, so he is unable to

ascertain whether or not it is relevant to an appeal of the Court's denial of habeas relief.

The Court will grant the petitioner leave to review Exhibit 101 prior to showing cause why Exhibit 101 should not be destroyed. However, as this Court has informed the petitioner before, a prisoner proceeding in *forma pauperis* is not entitled to receive copies of documents without payment. 28 U.S.C. § 1915; see also *McNeil v. City of Omaha*, No. 8:07CV143, 2008 WL 312715, at *3 (Jan. 30, 2008). Accordingly, petitioner may obtain a copy of Exhibit 101 by payment of requisite fees and compliance with the procedures of the Office of the Clerk of this Court. Should petitioner still wish to object to the destruction of Exhibit 101, he shall file a brief on or before August 22, 2017, to show cause as to why Exhibit 101 should not be destroyed. Accordingly,

IT IS ORDERED:

- 1) The Court's order to destroy Exhibit 101 (Filing No. 232) is stayed.
- 2) Petitioner may obtain a copy of Exhibit 101 after payment of the requisite fees and compliance with the procedures of the Office of the Clerk of this Court.
- 3) Petitioner shall file a brief on or before August 22, 2017, to show cause as to why Exhibit 101 should not be

destroyed. Failure to file a brief to show cause will be deemed a waiver of any objection to the destruction of Exhibit 101.

DATED this 4th day of August, 2017.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court